S.B. CIVIL WRIT PETITION NO.2143/1993
Jagdev Singh Vs. State of Rajasthan & Ors.

DATE OF ORDER :: 10-05-2005

HON'BLE MR. GOVIND MATHUR,J.

Mr. B.S. Sandhu, for the petitioner.
Mr. Shyam Ladhrecha, Dy.G.A. for State.

On 19.11.1969, public auction took place with regard to sale of land situated at square No.28/47 of Chak 6 MLD(B), Tehsil Ghadsana, Distt. Sriganganagar. The petitioner participated in the auction and was the highest bidder.

No decision was taken by the respondent for a petty long time, therefore, the petitioner made a representation to the Government to direct the Commissioner, Colonisation for allotment of the above mentioned land for temporary cultivation and the same was allotted to the petitioner for temporary cultivation on 24.11.1977. The possession of the land was also handed over to the petitioner immediately thereafter.

The Commissioner, Department of Colonisation for certain reasons, did not confirm the sale made as a consequence of auction took place on 19.11.1969. The decision of the

Commissioner was challenged by the petitioner by way of filing of writ petition before this Court being SBCWP No.1943/1980 Jagdev Singh Vs. State of Rajasthan & Ors. The writ petition referred above was disposed of by this Court by the order dated 17.10.1990 directing the respondents to decide the representation submitted by the petitioner for reconsidering the decision for not confirming the sale. The respondents were restrained from dispossessing the petitioner from the land in question till disposal of the representation referred above.

Before disposal of the representation, a notice dated 16.1.1993 was served upon the petitioner to handover the possession of the land in dispute to the Tehsildar (Revenue), Ghadsana on or before 2.2.1993. The petitioner being aggrieved by the notice dated 16.1.1993 has preferred the present writ petition with a contention that the notice dated 16.1.1993 deserves to be quashed and set aside as this Court by the order dated 17.10.1990 restrained to do so without disposing of the representation submitted by him.

A reply to the writ petition has been filed on behalf of the respondents stating therein

that no representation/application said to be filed in the month of April, 1980 is available on record and, therefore, the respondents decided to proceed with eviction proceedings without disposing of the representation.

I have heard learned counsel for the parties.

The respondents in reply to the present writ petition came with the case that the representation as said to be submitted in the month of April, 1980 is not available on record, however, in the earlier writ petition bearing No.1943/1980 Jagdev Singh Vs. State of Rajasthan & Ors., no such contention was raised by the respondents before this Court. The court disposed of the earlier writ petition relying upon the fact that the applications must have been submitted by the petitioner, specially in the circumstances, no denial was made by the respondents to that effect. Be that as it may. The auction of the land in dispute took place on 19.11.1969 i.e. about more than 36 years before. The land was allotted to the petitioner for temporary cultivation in the year 1977, as such the petitioner is having possession over the land from last about 27 years.

In totality of the facts, I consider it appropriate to direct the respondents to reconsider the issue with regard to the confirmation of the sale as a consequence of auction took place on 19.11.1969, irrespective of the fact that whether the application/representation was submitted by the petitioner or not and whether the same is available on record or not. The respondents while considering the issue afresh keep in mind the old possession of the petitioner over the land. The respondents while reconsidering the issue as above shall also provide an opportunity of hearing to the petitioner. The petitioner shall not be dispossessed from the land in dispute without deciding the issue in question.

With these observations, the writ petition is disposed of. No order as to costs.

[Govind Mathur],J.

Praveen